

FILED
JAMES BONINI
CLERK

2010 AUG 23 P 4:07

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
COLUMBUS

Dana Neal
PO Box 12726
Columbus, Ohio 43212
650.815.5195
Plaintiff in Pro Per

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

DANA NEAL
Plaintiff

v.

THE PHOENIX RECOVERY GROUP
Defendant

) Case No.

) [**2:10 cv 758**]

) COMPLAINT

JUDGE GRAHAM

) JURY DEMAND

) [15 U.S.C §1692 & 28 U.S.C. §1337]

TO THE CLERK OF THE ABOVE ENTITLED COURT:

1. Plaintiff, Dana Neal, brings this action for redress of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C §1692 et. seq (herein after "FDCPA").

JURISDICTION

2. Jurisdiction is vested in this Court pursuant to 15 U.S.C. §1692k(d) and 28 U.S.C. §1337.

1

COMPLAINT

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Columbus, Ohio 43212; 650.815.5195

PARTIES

3. Plaintiff, Dana Neal, is a natural person residing in Columbus, Ohio.

4. The Defendant, The Phoenix Recovery Group, herein after referred to as "P.R.G", is a debt collector and maintains its business at 2939 Mossrock, Suite #220, San Antonio, TX, 78230. P.R.G. is a DBA, and their legal name is Tolteca Enterprises Inc., a corporation organized in Texas.

FACTUAL ALLEGATIONS

5. On or about August 11, 2010, Defendant mailed Plaintiff a letter for the collection of a consumer debt. A true and just copy of this letter is attached hereto as Exhibit "A".

6. This letter fails to comply with the FDCPA, 15 U.S.C. §1692 et. seq.

7. The letter fails to state to the consumer that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector. This is in violation of 15 U.S.C. §1692g and e(10).

8. The letter fails to provide the statement that if the consumer notifies the debt collector in writing within the thirty day period that the debt, or any portion thereof, is

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1 disputed, the debt collector will obtain verification of the
2 debt or a copy of the judgment against the consumer and a copy
3 of such verification or judgment will be mailed to the consumer.
4 This is in violation of 15 U.S.C. §1692g and e(10).

5 9. The letter fails to provide a statement that, upon the
6 consumer's written request within the thirty day period, the
7 debt collector will provide the consumer with the name and
8 address of the original creditor, in violation of 15 U.S.C.
9 §1692g and e(10).

10 10. The letter fails to notify the consumer that if the
11 consumer notifies the debt collector in writing within the
12 thirty day period described in subsection (a) of this section
13 that the debt, or any portion thereof, is disputed, or that the
14 consumer requests the name and address of the original creditor,
15 the debt collector shall cease collection of the debt, or any
16 disputed portion thereof, until the debt collector obtains
17 verification of the debt or a copy of a judgment, or the name
18 and address of the original creditor, and a copy of such
19 verification or judgment, or the name and address of the
20 original creditor, is mailed to the consumer by the debt
21 collector. This is a violation of 15 U.S.C. §1692g.
22

23 COUNT I

24 3

25 COMPLAINT

26 Dana Neal, in pro per
27 PO Box 12726
Columbus, Ohio 43212; 650.815.5195

1 11. Plaintiff repeats and re-alleges the allegations in
2 paragraphs 1-10 as if fully set forth herein.

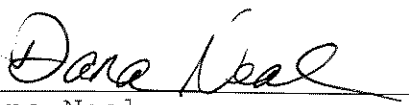
3 12. Defendants violated 15 U.S.C. §1692g as to Plaintiff by
4 failing to use language mandated by 15 U.S.C. §1692g.

5 13. As a result of Defendant's violations of the FDCPA,
6 plaintiff is entitled to recover statutory damages pursuant to
7 15 U.S.C. §1692k.

8 WHEREFORE, as to Count I, Plaintiff respectfully requests that
9 judgment be entered in his favor and against Defendant's for:

- 10 (a) Statutory damages pursuant to 15 U.S.C. §1692k; \$4000.
11 (b) Costs pursuant to 15 U.S.C. §1692k;
12 (c) A right to trial by jury;
13 (d) For such other and further relief that this Court
14 seems just and proper.
15

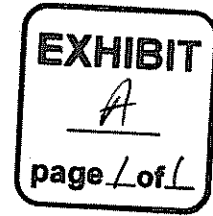
16
17 DATED: August 23, 2010

18 
19 Dana Neal
20 (Plaintiff in Pro Per)
21 PO Box 12726
22 Columbus, Ohio 43212

THE PHOENIX RECOVERY GROUP
2939 MOSSROCK SUITE #220
SAN ANTONIO, TX 78230
210-822-8272
800 810-7623

Date: 8/10/2010
Creditor: FIRSTMARK CU PRE CO
Account No: 104598-98533

Total Due: 211.00



DANA NEAL

PO BOX 12726
COLUMBUS, OH 43212

RE: IMPENDING CREDIT REPORT

Dear DANA NEAL

Please be advised that it is our intention to report the above referenced delinquent balance to all 3 major credit bureaus within the next 7 days. Once this derogatory information is transmitted to the credit bureau it can remain there for up to seven years and can have a serious negative impact on your credit score.

Please make immediate arrangements to contact our office to pay this balance and avoid this and any further collection action from being taken.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

****You may also pay this account by visiting our website: www.THEPRG.org
(We accept major credit cards or you can pay with a valid checking account)